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SUPREME COURT OF THE UNITED STATES

October Term, 1954

VIRGIL G. CARROLL, HARRY B. HOGAN, DOING BUSINESS AS HARRY B. HOGAN PAINTING COMPANY, AND ST. PAUL-MERCURY INDEMNITY COMPANY ..... *Petitioners*

v. No. 375

M. LANZA, DOING BUSINESS AS LAKE CHARLES ELECTRIC COMPANY ..... *Respondent*

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF FOR RESPONDENT

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v. No. 375

M. LANZA, DOING BUSINESS AS LAKE CHARLES ELECTRIC COMPANY ..... *Respondent*

BRIEF FOR RESPONDENT

CONSTITUTIONAL PROVISION AND STATUTES INVOLVED

Constitution of the United States of America, Article 4, Section 1:

> "Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof."

Pertinent sections of the workmen's Compensation Law of Missouri are set out in the appendix.

QUESTION PRESENTED

The question presented for review is whether, under the facts and circumstances of this particular case, the law of the State of Missouri which bars an action by the employee of a subcontractor against the general contractor should apply.

STATEMENT

Virgil G. Carroll, one of the petitioners, was injured on January 26, 1953, in an accident that occurred in Baxter County, Arkansas, during the construction of Bull Shoals Dam (R.5-6). Carroll was an employee of petitioner, Harry B. Hogan, doing business as Harry B. Hogan Painting Company (R.92). Petitioner, St. Paul-Mercury Indemnity Company, was the workmen's compensation insurance carrier for Hogan (R.93). Hogan was a subcontractor on this job under respondent, M. Lanza, doing business as Lake Charles Electric Company, who was the general contractor (R.92-93). Both Hogan (R.92) and Carroll (R.94) are residents of Springfield, Missouri, and Carroll was employed by Hogan in the State of Missouri (R.94). Lanza is a resident of the State of Louisiana (R.1, 5).

On March 2, 1953, Carroll filed suit in the Circuit Court of Baxter County, Arkansas, against Lanza, alleging a common law action for damages as a result of the occurrence of January 26, 1953 (R.5-7). Harold J. Fisher of Springfield, Missouri, was attorney for Carroll on March 2, 1953 (R.7) and has continued as counsel for Carroll throughout this litigation. The action in Baxter County, Arkansas, was removed by Lanza to the United States District Court for the Western District of Arkan-

sas (R.1-2). Thereafter, Hogan and St. Paul intervened in the district court action (R.25). Trial to the Court without a jury (R.27) resulted in a judgment in favor of the petitioners in the sum of Eighteen Thousand Dollars ($18,000.00) (R.70-71). Upon appeal to the United States Court of Appeals for the Eighth Circuit, this judgment was reversed (R.147). The Court of Appeals held that the cause of action was controlled by the law of the State of Missouri which bars a common law action by the employee of a subcontractor against a prime contractor where the Missouri Workmen's Compensation Act is applicable.

The facts pertinent to the question of whether the Missouri law is controlling are stated below.

Carroll, a resident of Missouri, employed in Missouri by Hogan, also a Missouri resident, received thirty-four weekly workmen's compensation payments under the Missouri Workmen's Compensation Act (R.103). These thirty-four payments were made through Harold J. Fisher, attorney for Carroll and also attorney for St. Paul. Carroll knew that he was receiving payments under the Missouri Workmen's Compensation Act (R.30). On October 10, 1953, Carroll requested of St. Paul that his workmen's compensation be paid under the Arkansas Workmen's Compensation Act (R.32-33). However, this request was not made until after the importance of the Missouri Workmen's Compensation payments had been called to the attention of counsel for Carroll by a request that they stipulate that Carroll's payments were being made under the Missouri Act (R.126-127). The maximum weekly compensation under the Missouri law is Thirty Dollars ($30.00) and under Arkansas law it is Twenty-five Dollars ($25.00) (R.103).

It is well settled under Missouri law that an employee of an insured subcontractor may not maintain an action of common law negligence against a general contractor. *Bunner* v. *Pattie*, 343 Mo. 274, 121 SW 2d 153, and *New Amsterdam Casualty Company* v. *Boaz-Kiel Construction Company*, 8 Cir., 115 F. 2d 950.

The Arkansas Workmen's Compensation law does not prohibit a common law action for negligence by an employee of an insured subcontractor against the prime contractor. *The Baldwin Company* v. *Maner, Judge*, (Ark.—December 6, 1954) 273 SW 2d 28.

ARGUMENT

The question before the Court of Appeals was whether it should apply Missouri law or Arkansas law. The answer to that question depended upon the facts and circumstances of this particular case. The Court held that the rights of a Missouri resident employed in Missouri by a Missouri employer, who had for thirty-four weeks accepted compensation payments under the Missouri Workmen's Compensation Act, through the attorney for the workmen's compensation insurance carrier who was also his attorney, were controlled by Missouri law, although the accident itself occurred in the State of Arkansas.

I

"Election of Remedies" Has No Application

The Court of Appeals did not invoke the doctrine of election of remedies in its decision. None of the principles of election of remedies was relied upon. When the word "elected" was used in the opinion of the Court of Appeals, it was placed in quotations (R.146).

It has been held that the denial of compensation by the Workmen's Compensation Commission of Arkansas did not constitute a bar to an award of compensation by the Workmen's Compensation Commission of Missouri. *Loudenslager* v. *Gorum*, 355 Mo. 181, 195 SW 2d 498. The doctrine of election of remedies was not applied in that case.

In *Magnolia Petroleum Company* v. *Hunt*, 320 U.S. 430, it was held that an award of compensation by the Texas Industrial Commission constituted a bar to a compensation claim in the State of Lousiana. However, this

result was reached not through the application of the doctrine of election of remedies but because of the "full faith and credit" clause of the Constitution of the United States.

Respondent concedes that this case is not controlled by *Magnolia Petroleum Company* v. *Hunt, supra,* but it does not follow that the payment and acceptance of thirty-four weeks of compensation under the Missouri Act is without significance. St. Paul-Mercury Indemnity Company routinely paid and Carroll accepted compensation payments under the Missouri Act. All of the petitioners initially conceded the interest of the State of Missouri in the matter. It is doubtful that the Missouri Compensation Commission would have permitted a withdrawal from its jurisdiction if objection had been made. See *Loudenslager* v. *Gorum*, 355 Mo. 181, 195 SW 2d 498. It is entirely probable that as a matter of comity the Arkansas Compensation Commission would not have accepted jurisdiction if an objection had been made. *Butler* v. *Lee Brothers Trucking Contractors*, 206 Ark. 884, 178 SW 2d 58; *Overcash* v. *Yellow Transit Company*, 352 Mo. 993, 180 SW 2d 678; and *Cole* v. *Industrial Commission*, 353 Ill. 415, 187 NE 520. However, no objection was made either before the Missouri Commission or the Arkansas Commission because the opposing parties on the compensation claim are joint petitioners here, and it is obvious that the change from Missouri compensation to Arkansas compensation was made for the sole purpose of seeking a recovery against respondent. Since petitioners concede that the judgment of the Court of Appeals would necessarily have been affirmed if Carroll had continued to receive benefits under the Missouri Act (regardless of whether or not an award was ever made by the Missouri Compensation Commission), it is difficult to comprehend the contention that the receipt of Missouri compensation for thirty-four weeks is without significance.

The real significance of the Missouri compensation payments is that both Carroll and St. Paul-Mercury Indemnity Company recognized that the interests of the State of Missouri were predominant and the interests of the State of Arkansas were casual.

II

The Decision in Bradford Electric Light Company, Inc. v. Clapper, Administratrix, Is Controlling

Although the decision of the Court of Appeals in entirely consistent with the spirit of *Magnolia Petroleum Company* v. *Hunt*, *supra*, it is not contended that the *Hunt* case is directly applicable. The *Hunt* case required the State of Louisiana to give full faith and credit to a compensation award of the State of Texas which had become final. It is conceded that there was no final award by the Missouri Compensation Commission in the present case.

However, it was held in *Bradford Electric Light Company, Inc.* v. *Clapper, Administratrix*, 286 U.S. 145, that the State of New Hampshire was required to give full faith and credit to a Vermont Statute which constituted a bar to the plaintiff's cause of action. The Clapper case is directly in point and controlling. That case involved a Vermont resident employed in the State of Vermont by a Vermont employer, such employee having received injuries, resulting in his death, in the State of New Hampshire. A common law action for negligence was filed against the employer in the State of New Hampshire and thereafter removed to the Federal District Court. The Vermont statute provided that the remedies of the Vermont Workmen's Compensation Act should be exclusive of all other remedies against the employer. The Vermont statute also provided that it should have extra-territorial effect. In an opinion by Mr. Justice Brandeis, this Court

While it would be inaccurate to say that the decision in *Pacific Employers Insurance Company* v. *Industrial Accident Commission, supra*, followed naturally from or was an outgrowth of the *Clapper* case, it is equally obvious that the two cases are not in irreconcilable conflict. In the *Clapper* case a remedy was being sought in the State of New Hampshire which was repugnant to the entire theory of the Vermont Workmen's Compensation Act. In the *Pacific Employers Insurance Company* case the remedy being sought in California was compatible with the Massachusetts remedy (although not identical), and no violence was done to the Massachusetts statute in holding that California might permit proceedings to secure a similar remedy provided by the laws of California.

Upon the combined authority of the *Alaska Packers Association* case and the *Pacific Employers Insurance Company* case it appears to be settled that either the State in which the employment was entered into or the State in which the injury occurred may award Workmen's Compensation under its own statute and by its own proceedings. It does not, however, follow therefrom that either State might allow a common law tort action which was barred by the statute of the other state and repugnant to the entire theory of workmen's compensation.

The conclusion is inescapable that decisions subsequent to the Clapper case have, at most, limited the application of the Clapper case to the fact situation there presented. Since the fact situation in the instant case is identical, it follows that the *Clapper* case must control.

It has been suggested that the *Clapper* case, although not overruled, has necessarily been limited in its scope by the decision in *Pacific Employers Insurance Company* v. *Industrial Accident Commission, supra*. There has been

advanced as a possible test of the applicability of the full faith and credit theory the "principle of balancing the governmental interest of the two competing states in the subject of the litigation". 134 ALR 1472. The annotater there says:

> "(1) If there exists in the state of the forum a statute or a public policy, and the governmental interests of that state in the persons, property, or events in the state involved in the litigation outweighs the governmental interest of the foreign state for whose statute recognition is sought, the refusal of the courts of the forum to give effect to the right under the foreign statute does not constitute a denial of full faith and credit to that statute.
>
> "(2) On the other hand, if the governmental interest of the state of the forum in the subject of the litigation is lacking or slight as compared with the governmental interest of the state for whose statute recognition is sought, the refusal of the courts of the forum to accord that recognition is a denial of full faith and credit."

In *Hughes* v. *Fetter*, 341 U.S. 609, 611, the test was stated as follows:

> "We have recognized, however, that full faith and credit does not automatically compel a forum state to subordinate its own statutory policy to a conflicting public act of another state; rather, it is for this court to choose in each case between the competing public policies involved."

Both on the basis of authority and sound reasoning it is clear that the governmental interests of the State of Missouri are superior to those of the State of Arkansas in the instant case. Petitioner Carroll was and is a resident of Missouri. He was employed in Missouri by a Missouri employer. He was injured in Arkansas while temporarily performing services there for his employer. An

held that New Hampshire was required to give full faith and credit to the Vermont statute and that the cause of action in New Hampshire was barred.

The present case involves a resident of Missouri employed in Missouri by a Missouri employer. The employee was injured in the State of Arkansas and filed a common law action for tort in an Arkansas State Court against one who is an employer under the Missouri law. The case was removed from the State Court to the Federal District Court. The Missouri statute provides that the remedies of the Missouri Compensation Act shall be exclusive of all other remedies available to the employee, and the Missouri statute specifically provides for extra-territorial effect in the following language:

> "This chapter shall apply to all injuries received in this State, regardless of where the contract of employment was made, and also to all injuries received outside of this State under contract of employment made in this State, unless the contract of employment in any case shall otherwise provide." Mo. R.S. 1949, section 287-110; Mo. R.S.A. Section 3700."

It is apparent that the facts in the *Clapper* case and facts in the instant case are essentially identical. The only difference between the two cases is that no workmen's compensation was ever sought or received in either Vermont or New Hampshire in the *Clapper* case, whereas in the instant case compensation was first paid and received under the Missouri law and later under the Arkansas law. Certainly, it cannot be contended that the receipt of thirty four weekly Missouri Compensation payments operates to lessen the effect of the Missouri law. In that regard, the argument in favor of application of the Missouri law is rendered even stronger. Nor can it be contended that the delayed "election" to seek compensation

payments under the Arkansas law is of significance. Obviously, if the employee cannot avoid the bar of the Missouri statute by a single proceeding in Arkansas, he cannot avoid it by a multiplicity of Arkansas proceedings.

A reversal of the Court of Appeals would require that *Bradford Electric Light Company, Inc.* v. *Clapper, Administratrix, supra*, be overruled.

Admittedly, there have been suggestions in lower court opinions and legal writings that *Bradford Electric Light Company, Inc.* v. *Clapper* is no longer valid precedent. However, this speculation finds no support in the decisions of this Court. The *Clapper* case is cited with approval in *Cardillo* v. *Liberty Mutual Insurance Company*, 330 U.S. 469. It is cited with no hint of disapproval in *Industrial Commission of Wisconsin* v. *McCartin*, 330 U.S. 622. As late as 1951, it was relied upon in the majority opinion in *Hughes* v. *Fetter*, 341 U.S. 609, and it was distinguished in the dissenting opinion in that case, but there was certainly no suggestion by the dissent that it was overruled.

What then has given rise to questions concerning the validity of the Clapper case? Generally, it appears to be based upon two subsequent opinions of this Court. *Alaska Packers Association* v. *Industrial Accident Commission of California*, 294 U.S. 532; and *Pacific Employers Insurance Company* v. *Industrial Accident Commission*, 306 U.S. 493. It is difficult to perceive any conflict between the *Clapper* case and the *Alaska Packers Association* case. Both cases held that it was proper to apply the compensation law of the State in which the contract of employment was made. The opinion in the *Alaska Packers Association* case cited the *Clapper* case several times with no hint of any question of its validity.

identical situation was involved in *Ohlhaver* v. *Narron*, 4 Cir., 195 F. 2d 676, 679, and it was there held:

> "Of the two states whose interests are here concerned (New York and North Carolina), we think New York is more intimately concerned; for it was there that the employer besides the employment contract was there entered into, and it was from there that the activities of the plaintiff were directed. The employer has secured its workmen's compensation liability by procuring a policy of insurance which contained an endorsement covering injuries sustained in any state. Since its interests are superior, the compensation act of New York is a bar to a common law action by an employee against a fellow servant in any other jurisdiction."

See also *Scott* v. *White Eagle Oil and Refining Company* (D.C. Kan., 47 F. 2d 615; and *Overcash* v. *Yellow Transit Company*, 352 Mo. 993, 180 SW 2d 678.

The extra-territorial application of the Missouri act cannot be questioned. *Sims* v. *Truscon Steel Company*, 343 Mo. 1216, 126 SW 2d 204; *Bolin* v. *Swift & Company*, 335 Mo. 732, 73 SW 2d 771, and *Daggett* v. *Kansas City Structural Steel Company*, 334 Mo. 207, 65 SW 2d 1036, cert. denied 292 U.S. 630. Also, it is well settled under the law of Missouri that the "election" of an employee to be a compensation employee rather than a common law employee becomes an integral part of a Missouri employment contract. *Hartman* v. *Union Electric Light & Power Company*, 331 Mo. 230, 53 SW 2d 241; and *Scott* v. *White Eagle Oil and Refining Company* (D. C. Kan.) 47 F. 2d 615. Obviously, the ultimate effect of contracts of employment made within its boundaries and between its citizens is of major importance to the State of Missouri. Also, the State of Missouri has a greater interest in the compensation of the petitioner for injuries received, since, if he should become a public charge, the burden of his support

would fall upon the State of Missouri, the state of his residence.

Another test to ascertain the limit of the application of the Clapper doctrine was suggested by the concurring opinion of Mr. Justice Stone (286 U.S. 163):

> "I agree that in the circumstances of the present case, the courts of New Hampshire, in giving effect to the public policy of that state, would be at liberty to apply the Vermont statute and thus, by comity, make it the applicable law of New Hampshire. In the absence of any controlling decision of the New Hampshire courts, I assume, as does the opinion of the court, that they would do so and that what they would do we should do. Hence, it seems unnecessary to decide whether that result could be compelled, against the will of New Hampshire, by the superior force of the full faith and credit clause."

This test has also been stated, somewhat differently, as requiring the forum to give full faith and credit to the statute of the foreign state unless to do so would violate well established public policy of the forum. Arkansas, like New Hampshire, has announced no controlling decision, and it is safe to assume that Arkansas would, by comity, make the statute of Missouri the applicable law of Arkansas under the circumstances. Certainly, there is no justification for asserting that the Missouri statute contravenes well established public policy of the State of Arkansas.

The Supreme Court of Arkansas has cited *Bradford Electric Light Company, Inc.* v. *Clapper, Administratrix, supra*, with approval. *Magnolia Petroleum Company* v. *Turner*, 188 Ark. 177, 65 SW 2d 1. It is true that the Arkansas Supreme Court decided in *The Baldwin Company* v. *Maner* (Ark. December 6, 1954) 273 SW 2d 28, that the

Arkansas Compensation Statute did not prohibit a common law action such as that alleged by petitioners. However, that decision is not based upon the public policy of the State of Arkansas, but rather upon the failure of the legislature to so provide. It is clear from the opinion of the Supreme Court of Arkansas that the legislature could so provide, and it is also indicated that in the opinion of the Court, rather than contravening public policy, such a provision would be desirable.

There are three decisions of the Supreme Court of Arkansas holding that the Louisiana Compensation Act could not bar a common law action in the State of Arkansas by a person injured in Arkansas. *Haynes Drilling Corp.* v. *Smith*, 200 Ark. 1098, 143 SW 2d 27; *Standard Pipeline Company* v. *Burnett*, 188 Ark. 491, 66 SW 2d 637, cert. denied 292 U.S. 649; and *Standard Oil Company of Louisiana* v. *Richerson*, 188 Ark. 382, 67 SW 2d 1003. However, the distinguishing features between these three cases and the instant case are numerous. In none of the three cases did it appear that the contract of employment was entered into outside the State of Arkansas. In all three cases the injured plaintiff was a citizen of Arkansas. The *Haynes Drilling Corp.* v. *Smith* decision indicates that the Louisiana Workmen's Compensation Act did not expressly provide for extra territorial effect. Furthermore, of particular significance with regard to the question of public policy, all three of these cases were decided at a time when the constitution of Arkansas, Article 5, Section 32 provided as follows:

> "No act of the General Assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and in case of death from such injuries the right of action shall survive and the General Assembly shall

prescribe for whose benefit such action shall be prosecuted."

In other words, at the time of these decisions, the public policy of the State of Arkansas, as announced in its constitution, was opposed to the entire theory of workmen's compensation. Before the State of Arkansas could enact workmen's compensation legislation it was necessary to pass a constitutional amendment. This was done in 1938, and Amendment 26 to the Constitution of the State of Arkansas changed Article 5, Section 32 of the Arkansas Constitution to read as follows:

> "The General Assembly shall have power to enact laws prescribing the amount of compensation to be paid by employers for injuries to or death of employees, and to whom said payment shall be made. It shall have power to provide the means, methods, and forum for adjudicating claims arising under said laws, and for securing payment of same. Provided, that otherwise no law shall be enacted limiting the amount to be recovered for injuries resulting in death or for injuries to persons or property; and in case of death from such injuries the right of action shall survive, and the General Assembly shall prescribe for whose benefit such action shall be prosecuted."

Since the public policy of the State of Arkansas with regard to workmen's compensation was reversed by the constitutional amendment of 1938, decisions prior to 1938 are of no significance on the question of public policy of the State of Arkansas.

III

The Result Reached by the Court of Appeals Is Sound and Is in Harmony with Other Decisions

> "To allow the compensation system to be supplanted by suits for damages would be gravely to

> impair, if not to destroy, that system—a system which provides, in Justice Brandeis' words, 'not only for employees a remedy which is both expeditious and independent of proof of fault, but also for employers a liability which is limited and determinate.' *Bradford Elec. Co.* v. *Clapper*, 286 U.S. at page 159, 52 S.Ct. at page 576." *Jonathan Woodner Company* v. *Mather* (D.C. Cir.—1954), 210 F. 2d 868, 872.

The question here involved has been examined exhaustively in the opinion in *Jonathan Woodner Company* v. *Mather, supra.* The following conclusion was reached by the Court (210 F. 2d 873):

> "But the thrust of these groups of cases, taken together, is apparent: In an employee-employer suit, if some workmen's compensation act purports to bar the action, that bar will be applied in the forum.
>
> The rationale underlying these cases, though not articulated, seems clear. The employer has incurred the burden of providing workmen's compensation insurance. The employee has forgone his right to sue the employer for negligence. But both have also gained. The employer had gained an immunity from common law suit. The employee has gained a right to relief even where his injury did not arise through the fault of his employer. The courts clearly consider that this system of mutual give and take would be upset if the employee could sue for negligence in another jurisdiction."

In Restatement, Conflict of Laws, Section 401 (1948 Supp.), the rule is stated as follows:

> "If a cause of action in tort or an action for wrongful death either against the employer or against a third person has been abolished by a workmen's compensation act of the place of wrong, no action can be maintained for such tort or wrongful death in any state.
>
> • • •

b. *Effect of Constitution of United States.* If the Compensation Act of the state where the contract of employment is made abolishes the common law or statutory right of action either as a result of the fact that the employment was entered into in that state or by reason of the election of the parties to come within the operation of that act, no action can be maintained in any state irrespective of where the workman was injured or killed unless the state where the wrong occurred has declared the act obnoxious to its policy of permitting recovery for the protection of the interests of persons living in the state. This result is required as between states of the United States under the full faith and credit clause of the constitution."

Petitioners have cited no case in which a contrary result was reached on a similar question of law. Yet the question has been before the courts on several occasions. *Jonathan Woodner Company* v. *Mather, supra; Willingham* v. *Eastern Airlines,* 2 Cir., 199 F. 2d 623; *Ohlhaver* v. *Narron,* 4 Cir., 195 F. 2d 676; *Scott* v. *White Eagle Oil and Refining Company* (D.C. Kan.), 47 F. 2d 615; and *Magnolia Petroleum Company* v. *Turner,* 188 Ark. 177, 65 SW 2d 1.

CONCLUSION

Respondent submits that the result reached by the Court of Appeals is supported by sound reasoning and authority and that it should be affirmed on authority of *Bradford Electric Light Company, Inc.* v. *Clapper, Administratrix*, 286 U.S. 145.

Respectfully submitted,

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March 16, 1955

APPENDIX

Mo. Rev. Stat. 1949, Section 287.060 (Rev. Stat. Ann. Section 3690):

> "1. Every employer and every employee, except as in this chapter otherwise provided, shall be conclusively presumed to have elected to accept the provisions of this chapter and respectively to furnish and accept compensation as herein provided, unless prior to the accident he shall have filed with the commission a written notice that he elects to reject this chapter."

Mo. Rev. Stat. 1949, Section 287.040 (Rev. Stat. Ann. Section 3698):

> "1. Any person who has work done under contract on or about his premises which is an operation of the usual business which he there carries on shall be deemed an employer and shall be liable under this chapter to such contractor, his subcontractors, and their employees, when injured or killed on or about the premises of the employer while doing work which is in the usual course of his business.
>
> "• • •
>
> "3. The provisions of this section shall not apply to the owner of premises on which improvements are being erected, demolished, altered or repaired by an independent contractor but such independent contractor shall be deemed to be the employer of the employees of his subcontractors and their subcontractors when employed on or about the premises where the principal contractor is doing work.
>
> "4. In all cases mentioned in the preceding subsections, the immediate contractor shall be liable as an employer to the employees of his subcontractors. • • •"

Mo. Rev. Stat. 1949, Section 287.110 (Mo. Rev. Stat. Ann. Section 3700):

> "1. This chapter shall apply to all cases within its provisions except those exclusively covered by any Federal law.
>
> "2. This chapter shall apply to all injuries received in this state, regardless of where the contract of employment was made, and also to all injuries received outside of this state under contract of employment made in this state, unless the contract of employment in any case shall otherwise provide."

Mo. Rev. Stat. 1949, Section 287.120 (Mo. Rev. Stat. Ann. Section 3691):

> "1. If both the employer and the employee have elected to accept the provisions of this chapter, the employer shall be liable irrespective of negligence, to furnish compensation under the provisions of this chapter for personal injuries or death of the employee by accident arising out of or in the course of his employment, and shall be released from all other liability therefor whatsoever, whether to the employee or any other person.
>
> "2. The rights and remedies herein granted to an employee shall exclude all other rights and remedies of such employee, his wife, her husband, parents, personal representatives, dependents, heirs or next kin, at common law or otherwise, on account of such accidental injury or death, except such rights and remedies as are not provided for by this chapter. * * *."

Mo. Rev. Stat. 1949, Section 287.380 (Mo. Rev. Stat. Ann. Section 3722):

> "1. Every employer in this state, whether he has accepted or rejected the provisions of this

chapter, shall within ten days after knowledge of an accident resulting in personal injury to an employee, notify the commission thereof, and shall within one month, file with the commission under such rules and regulations and in such form and detail as the commission may require, a full and complete report of every injury or death to any employee for which the employer would be liable to furnish medical aid or compensation hereunder had he accepted this chapter, and every such employer shall also furnish the commission with such supplemental reports in regard thereto as the commission shall require.

"• • •

"3. No information obtained under the provisions of this section shall be disclosed to persons other than the parties to compensation proceedings and their attorneys, save by order of the commission, or at a hearing of compensation proceedings, but such information may be used by the commission for statistical purposes.

"4. Every person who violates any of the provisions of this section, or who knowingly makes a false report or statement in writing to the commission, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than one week nor more than one year, or by both such fine and imprisonment."

Mo. Rev. Stat. 1949, Section 287.400 (Mo. Rev. Stat. Ann. Section 3724 (Supp.):

"1. Upon receipt of notice of any accident for which compensation other than that provided in Section 287.140 (3701) shall be payable, the commission shall inform the employee general-

ly of his rights under this chapter. The employer shall notify the division as soon as payment of compensation is commenced and when terminated, and shall file with the commission, at the time of notice of termination, a physician's report. In the event a dispute arises between the employer and the employee regarding the payment of compensation, the commission shall assist the employee in filing a claim and securing an early adjudication thereof."

Mo. Rev. Stat. 1949, Section 287.450 (Mo. Rev. Stat. Ann. Section 3728):

"2. If the employer and the employee or his dependents do not agree in regard to compensation payable under this chapter, either party may make application for a hearing in regard to the matters at issue and for a ruling thereon. * * *."